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14 CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE

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Plaintiff,

11

PACIFIC BELL TELEPHONE COMPANY

Defendant.

CASE NO. 2:21-cv-00073-MCE-JDP

**PLAINTIFF'S STATUS CONFERENCE
STATEMENT**

Zoom Conference

August 24, 2023, 2:00pm

Hon. Jeremy D. Peterson

1 This Court ordered the parties to file a Status Conference Statement by August 17, 2023,
2 in preparation for a Status Conference via zoom on August 24, 2023. This is the Plaintiff's Status
3 Conference Statement.

4 On August 15, 2023, the parties held a one hour meet and confer via zoom to discuss the
5 nature and timing of discovery, as well as a schedule for a trial date.
6

7 It was a productive zoom conference. First of all, on the substance of the trial, the parties
8 agree that the goal is to make a sound presentation of the scientific evidence to the Court, and to
9 "let science be the guide." This is significant because it provides a GuideStar for the parties to
10 work together through the discovery process to make sure that, when possible, discovery is done
11 cooperatively, including perhaps having divers for both parties present together for the collection
12 of samples. This also applies to testing procedures. With an agreement as to how testing should
13 be done, this Court can be provided evidence based upon results, without having quarrels about
14 how the samples were taken, or how tests were done.
15

16 As far as discovery timing, both parties will commence with written discovery
17 immediately. By August 22, 2023, two days before the Status Conference hearing, Plaintiff will
18 have served Requests for Admissions, Requests for Production of Documents and Written
19 Interrogatories.
20

21 A focus for both parties is to have all information concerning sampling, testing, or any
22 written communication about the cables in Lake Tahoe, "to be put on the table." In this manner,
23 all existing science, and the assessments of the cable situation prior to and during this litigation,
24 are available for all to see, assess and comment upon. The parties also agreed in their meet and
25 confer that they will provide for assessment all physical evidence collected, such as cable pieces.
26

27 Since some of the evidence collection, sampling and testing has been done by third
28 parties, the Defendant has already sent out numerous third-party subpoenas. There is some
29

1 disagreement about the scope of the third-party subpoenas. Certainly, all documentation regarding
2 sampling and testing within Lake Tahoe, either before or after the commencement of the
3 litigation, is discoverable, and procedures can be worked out going forward so that any future
4 sampling and testing can be made available to both parties.
5

6 Difficulty arises, however, when the Defendant in this case pursues sampling and testing
7 regarding cables in the Northeast, South or West, essentially across America. This creates an
8 unnecessary burden on the litigants of this Lake Tahoe case, and does not provide relevant
9 information to the crux of the issue in the case which is the science regarding the cables in Lake
10 Tahoe, not the science for cables outside of Lake Tahoe.
11

12 As is discussed below, the parties have agreed to a relatively swift trial date with a focus
13 on science. Going too far afield with third party subpoenas would be unduly burdensome, and
14 would slow down the litigation of this matter. At some point, requesting information from third
15 parties regarding other water bodies where cables have been left is too attenuated. The parties,
16 perhaps with the assistance of the Court, should limit the parameters of the third-party pursuit of
17 documents.
18

19 Finally, as for a trial date, the parties are in agreement as to a trial schedule. The trial
20 schedule was discussed during the main conference and then distributed afterwards (It is attached
21 hereto). The parties have agreed to a trial date of September 16, 2024, and worked out a timeline
22 leading up to that trial day. The one issue is whether the Plaintiff and Defendant expert
23 disclosures will be simultaneous. Defendant has suggested that the Plaintiff provide expert
24 disclosures three weeks before the Defendant, and Plaintiff has responded that the disclosures
25 should be simultaneous. The best date for both would be April 1, 2024, the date that Defendant
26 has picked for the disclosure of its experts. This timeline is provided so that the Court will have
27 the opportunity to review it, and set a trial date at our next Status Conference hearing.
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DATED: August 17, 2023

Respectfully submitted,

LAW OFFICE OF JOHN KIRK BOYD

By: /S/
John Kirk Boyd

Attorneys for Plaintiff
CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE